

REMARKS

This is a full and timely response to the outstanding final Office Action mailed April 25, 2008. In the Office Action, claims 9, 11, 13-15, and 18-22 have been preliminarily rejected as allegedly failing to comply with the written description requirement under 35 U.S.C. §112, first paragraph; claims 9, 11, 13-15, and 18-22 have been preliminarily rejected as allegedly being indefinite under 35 U.S.C. §112, second paragraph; claims 9, 13, 14, 18, 20, and 21 have been preliminarily rejected as allegedly being anticipated under 35 U.S.C. §102(b); and claims 11, 15, 19, and 22 have been preliminarily rejected as allegedly being obvious under 35 U.S.C. §103(a).

Claims 11, 15, and 19 have been amended. Claims 9, 13, 14, 18, and 20-22 have been cancelled without prejudice. Claims 23-31 have been newly added and do not add new matter.

I. RESPONSE TO CLAIM REJECTIONS BASED ON WRITTEN DESCRIPTION REQUIREMENT

In the Office Action, claims 9, 11, 13-15, and 18-22 have been preliminarily rejected as allegedly failing to comply with the written description requirement under 35 U.S.C. §112, first paragraph.

The Office Action takes note of the L-shaped holding portion shown in FIG. 8 of the presently pending application and questions how FIG. 8 and relevant portions of the specification can serve as written description support for claims drawn to apparatuses

having a holding portion resting on or holding to only a horizontal planar surface (Office Action, p. 3). The claims have been amended to resolve this rejection.

The Applicant has provided new claims 23-31, which address certain formality concerns raised in the Office Action and further clarify the invention without adding new matter. By more clearly reciting certain claim limitations as limitations of the display apparatus itself rather than as limitations recited indirectly with reference to the structure on which the display apparatus is intended to be mounted, it is the Applicant's intention with new claims 23-31 to more particularly point out and more distinctly claim the subject matter believed to be allowable even as previously presented in pending claims 9, 11, 13-15, 18-21, and 22.

II. RESPONSE TO CLAIM REJECTIONS BASED ON INDEFINITENESS

In the Office Action, claims 9, 11, 13-15, and 18-22 have been preliminarily rejected as allegedly being indefinite under 35 U.S.C. §112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

The Office Action states the following with regard to alleged indefiniteness of the holding portion (or holding means) at independent claims 9, 21, and 22:

“... [i]t is not clear what constitutes ‘holding portion’ ... there is no detailed basis in the specification regarding the holding portion 202 except on Fig 8 and describes in the specification that the holding portion 202 is to hold the mantle 244 (page 8 of the specification) ... the holding portion 202 as described on Fig 8 appears to be comprising both horizontal planar surface and vertical planar surface of the support 200. It is unclear whether the holding portion 202 comprising both horizontal planar surface and

vertical planar surface of the support 200 or the holding portion comprising only a horizontal planar surface as claimed in claims 9, 21, and 22.”

(Office Action, p. 3 ff.)

Again, to address these issues, claims have been amended and new claims 23-31 have been provided.

The Applicant respectfully requests consideration of new claims 23-33, which are being presented to address certain formality concerns raised in the Office Action. By more clearly reciting certain claim limitations as limitations of the display apparatus itself rather than by reciting such limitations indirectly with reference to the structure on which the display apparatus is intended to be mounted, it is the Applicant’s intention with new claims 23-33 to more particularly point out and more distinctly claim the subject matter believed to be allowable even as previously presented in pending claims 9, 11, 13-15, 18-21, and 22.

III. RESPONSE TO CLAIM REJECTION BASED ON ANTICIPATION

In the Office Action, claims 9, 13, 14, 18, 20, and 21 have been preliminarily rejected as allegedly being anticipated by U.S. Patent No. 2,743,023 to Larson (hereafter “Larson”). For a proper rejection of a claim under 35 U.S.C. §102(b), the cited reference must disclose all elements/features/steps of the claim. See, e.g., *E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 USPQ2d 1129 (Fed. Cir. 1988).

A. Independent Claim 9 (and New Claim 23)

Claim 23 reads:

23. An apparatus for displaying one or more objects on a structure, the apparatus comprising:

a holding portion permitting the apparatus to be mounted to the structure;

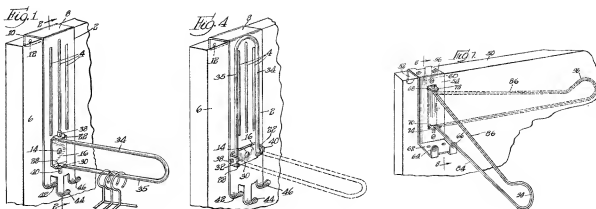
an enclosed central loop permitting display of a second object, the enclosed central loop being enclosed on a top portion, a bottom portion, a front portion, and a back portion of the enclosed central loop, the enclosed central loop being open on a left side portion and a right side portion of the enclosed central loop so as to allow the second object to be situated therein, and the back portion of the enclosed central loop being a portion of the holding portion; and

a hook permitting display of a first object, the hook being an extension of the back portion of the enclosed central loop, and the hook being open in a vertically upward direction so as to allow the first object to be retained thereon by means of gravity,

wherein the holding portion has an elongated top portion extending in a horizontal direction that is substantially perpendicular to the vertically upward direction, and

wherein the holding portion has a frictional element capable of reducing mobility in the horizontal direction, the frictional element being present only on a vertically downward-facing surface of the elongated top portion of the holding portion, the vertically downward direction being substantially opposite to the vertically upward direction.

The Applicant respectfully submits that independent claim 23 is allowable for at least the reason that Larson does not disclose all elements of claim 23. Specifically, Larson at least does not disclose a holding portion having an elongated top portion extending in a horizontal direction that is substantially perpendicular to the vertically upward direction.



FIGS. 1, 4, and 7 from Larson are reproduced above. The Office Action alleges that “Larson’s Fig 7, shows a hanger apparatus comprising a holding portion (54) shaped so as to allow said apparatus to hold to said structure 50 by an underside portion (56) of said holding portion and being capable of resting only on horizontal planar surface said structure (horizontal surface 50) ...” (Office Action, p. 4). The Office Action further alleges that “Larson’s Figures 1 or 4 also shows a hanger apparatus comprising a holding portion (2, 8) shaped so as to allow said apparatus to hold to said structure by an underside portion (8, 10) (under 8 if orientates vertically as shown on Figs 1 or 4), or under 10 if orientates horizontally) of said holding portion and being capable of resting only on horizontal planar surface said structure (if the structure 6 orientates 90-degree, horizontally) ...” (Office Action, p. 4). However, as all embodiments of Larson have a feature like the open flanged tongue 10 of FIGS. 1 and 4 or the clamps 58 and 60 of FIG. 7, by means of which the hanger apparatus of Larson is at least partially held to a structure as a result of a side portion of the holding portion being secured to a vertical planar surface of the structure, Larson does not show a hanger apparatus comprising a holding portion having an elongated top portion extending in a horizontal direction that is

substantially perpendicular to the vertically upward direction. In fact, even column 2, lines 57-63 of Larson read:

Means is provided for supporting this supporting base snugly against the wall or face 6 of a door or other similar main supporting member, which comprises preferably a hook shaped top portion 8 formed by bending the upper portion of the metal support 2 to provide an open flanged tongue 10 spaced from the front wall 2 of the support a distance corresponding to the thickness of a door.

For at least the abovementioned reason, the Applicant respectfully requests allowance of claim 23.

B. Independent Claims 28 and 31

The Applicant respectfully submits that independent claims 28 and 31 are allowable for at least the same reasons that independent claim 23 is allowable.

C. Dependent Claims 11, 15, 19, 24-27, 29, and 30

Since, as explained above, independent claims 23, 28, and 31 are allowable over the prior art, their respective dependent claims are also allowable, as a matter of law. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

Additionally and notwithstanding the foregoing, these dependent claims recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the prior art of record. Hence, there are other reasons why these dependent claims are allowable.

One dependent claim, among others, that clearly is allowable includes new dependent claim 27, which reads as follows:

27. The apparatus of claim 23, **wherein the holding portion, the enclosed central loop, and the hook are a single solid structure.**

Clearly no prior art teaches additional limitation of dependent claim 27.

IV. RESPONSE TO CLAIM REJECTIONS BASED ON OBVIOUSNESS

In the Office Action, claims 11, 15, and 19 have been preliminarily rejected under 35 USC§103(a) as being unpatentable over U.S. Patent No. 2,743,023 to Larson (hereafter “Larson”) in view of U.S. Patent No. 6,835,452 to Hamerski (hereafter Hamerski). Furthermore, in the Office Action, claim 22 has been preliminarily rejected under 35 USC§103(a) as being unpatentable over Larson. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. See, e.g., In re Dow Chemical, 5 U.S.P.Q. 2d 1529, 1531 (Fed. Cir. 1988), and In re Keller, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

Dependent claims 11, 15, and 19 are allowable for at least the reasons mentioned with regard to the anticipation rejection addressed hereinabove.

AUTHORIZATION TO CHARGE/CREDIT DEPOSIT ACCOUNT

Authorization to charge Deposit Account No. 501304 is hereby granted for a Request for Continued Examination (RCE). It is not believed that additional fees are required, beyond those that may otherwise be provided for in documents accompanying

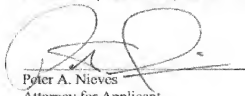
this response. However, in the event that additional extensions of time and/or payment of fees are necessary to allow consideration of this response, such extensions and payments are hereby petitioned under 37 C.F.R. § 1.136(a) and are hereby authorized to be charged to Deposit Account No. 501304.

CONCLUSION

In light of the foregoing and for at least the reasons set forth above, the Applicant respectfully requests favorable reconsideration and allowance of the present application and the presently pending claims. If in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (603) 627-8134.

Respectfully submitted,

SHEEHAN, PHINNEY, BASS + GREEN, P.A.

A handwritten signature in black ink, appearing to read 'Peter A. Nieves', is written over a horizontal line.

Peter A. Nieves
Attorney for Applicant
Reg. No. 48,173

Customer No.: 57449
SHEEHAN PHINNEY BASS + GREEN, P.A.
1000 ELM STREET
MANCHESTER, NH 03101 U.S.A.
TEL: 603.668.0300
FAX: 603.627.8121